

1 **THE HONORABLE BARBARA J. ROTHSTEIN**

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10 **UNITED STATES DISTRICT COURT**
11 **WESTERN DISTRICT OF WASHINGTON**

12 TRAVIS VOSS-CURRY, an individual,

13 Plaintiff,

14 v.

15 CROWN EQUIPMENT CORPORATION,
16 an Ohio corporation; and LATTCO
SERVICES, INC., a California
corporation,

17 Defendants.
18

CASE NO. 2:22-cv-01062-BJR

**ORDER DENYING MOTION TO
REMAND**

19 **I. INTRODUCTION**

20 Plaintiff Travis Voss-Curry (“Voss-Curry”) filed this action in King County
21 Superior Court against Defendants Crown Equipment Corporation (“Crown”) and Lattco
22 Services, Inc. (“Lattco”), alleging negligence against both Defendants and “manufacturer
23 products liability” under RCW 7.72.030 against Crown. Plaintiff seeks personal injury

1 damages for injuries he allegedly suffered while working as a warehouse employee at a
2 distribution center in Kent, Washington. Crown filed a notice of removal pursuant to 28
3 U.S.C. § 1441(b) alleging that this Court has original jurisdiction pursuant to 28 U.S.C. §
4 1332(a).

5 Currently before the Court is Plaintiff's motion to remand, which both Defendants
6 oppose. *See* Dkt. Nos. 4, 13, and 15. Having reviewed the motion, oppositions thereto, the
7 record of the case, and the relevant legal authorities, the Court denies the motion. The
8 reasoning for the Court's decision follows.

9 II. BACKGROUND

10 As stated above, Voss-Curry works at a distribution center located in Kent,
11 Washington. Dkt. No. 1, Ex. 2 at 2.1 He alleges that Defendant Lattco provides cleaning
12 services at the distribution center and is supposed to "ensure that the warehouse [is] clean
13 and that the warehouse floor [is] free of hazards." *Id.* at 2.3. He further alleges that
14 Defendant Crown "supplies" the pallet jacks used at the distribution center. *Id.* at 2.2.

15 Voss-Curry claims that on August 29, 2021, he was injured when the triple pallet
16 jack he was operating "slipped" because there was liquid on the warehouse floor and
17 "smashed his foot". *Id.* at 2.4, 2.7-2.8. He alleges that the "pallet jack [] broke off across
18 [his] waist, causing the actual control handle to sheer off and causing him to fall on the
19 ground." *Id.* at 2.9. Voss-Curry claims that medics were called to the scene, and he was
20 transported to the hospital where it was determined that he had a "lacerated vein" and
21 broken calcaneus bone in his left foot, which necessitated surgery that evening. *Id.* at 2.12-
22 13. He asserts that he continues to suffer from physical and psychological injuries as well
23 as a permanent partial disability to this day. *Id.* at 2.14, 2.17.

1 In June 2022, Voss-Curry filed suit against Defendants in King County Superior
2 Court, alleging a common law negligence claim against both Defendants and a products
3 liability claim against Crown. The complaint does not allege a specific amount of damages,
4 but rather seek “specific and general damages in an amount to be proven at trial.” *Id.* at
5 Prayer for Relief, ¶ 3.

6 Crown, with Lattco’s consent, removed the action to this Court on July 29, 2022,
7 claiming that this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a). Dkt. No.
8 1. Voss-Curry filed the instant motion to remand on August 2, 2022, which Defendants
9 oppose. Dkt. Nos. 4, 13, and 15. The parties do not dispute that diversity is complete
10 between the parties; the only issue is whether the amount in controversy as pled by Voss-
11 Curry exceeds the \$75,000 minimum required for this Court’s jurisdiction pursuant to 28
12 U.S.C. § 1332(a).

13 III. DISCUSSION

14 District courts have original jurisdiction of all civil actions between citizens of
15 different states in which the amount in controversy exceeds \$75,000, exclusive of interest
16 and costs. 28 U.S.C. § 1332. A defendant may remove a civil action brought in a state
17 court if the district courts have original jurisdiction, 28 U.S.C. § 1441(a), however, to
18 protect the jurisdiction of state courts, there is a strong presumption against removal
19 jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (noting that any doubt
20 as to the right of removal must be resolved in favor of remand). The party seeking removal
21 has the burden of establishing that federal jurisdiction exists. *Abrego Abrego v. Dow*
22 *Chem. Co.*, 443 F.3d 676, 682-83 (9th Cir. 2006).

23 Where, as here, the complaint does not delineate a specific amount of damages,

1 “the removing party must prove, by a preponderance of the evidence, that the amount in
2 controversy meets the jurisdictional threshold.” *Matheson v. Progressive Specialty Ins. Co.*,
3 319 F.3d 1089, 1090 (9th Cir. 2003). This means that the removing party must show that it is
4 “more likely than not” that the amount in controversy exceeds \$75,000. *See Guglielmino v.*
5 *McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 2007). This Court’s local rules further
6 clarify that a complaint may be removed “if a reasonable person, reading the complaint[],
7 would conclude that the plaintiff was seeking damages in an amount greater than [\$75,000].”
8 Local Rules W.D. Wash. LCR 101(a).

9 This Court concludes that the instant complaint provides a reasonable, good faith
10 basis to conclude that Voss-Curry seeks damages greater than \$75,000.00. As set forth in
11 the Background section *supra*, the complaint alleges that Voss-Curry’s injuries required
12 ambulance transport to the emergency room, surgery, physical therapy, and follow-up
13 doctor’s appointments that are described as “extensive”. Further, the complaint claims that
14 his injuries resulted in a permanent partial disability and that Voss-Curry continues to
15 suffer both physically and psychologically due to his injuries. *See* Dkt. No. 1, Ex. 2 at ¶
16 2.17 (alleging that this suffering has impacted Voss-Curry’s “ability to fully enjoy life”).
17 Lastly, the complaint seeks “all past, present and future economic losses and damages and
18 non-economic losses and damages”, including but not limited to pain, suffering, disability,
19 emotional distress, and loss of earning, employment, and companionship. *Id.* at Prayer for
20 Relief. The Court concludes that a reasonable person reading the foregoing allegations
21 would determine that the amount in controversy exceeds \$75,000.

22 Voss-Curry counters that Defendants cannot meet their burden of establishing
23 jurisdiction by simply relying on averments in the complaint. Rather, Voss-Curry argues,

1 Defendants must prove “by a preponderance of evidence” that the amount in controversy
2 exceeds \$75,000. Voss-Curry is correct that the Supreme Court has stated that where it is
3 unclear from the face of the complaint what amount of damages the plaintiff seeks, and
4 where the plaintiff challenges the defendant’s assertion that the jurisdictional amount is
5 met, “the court may demand that the party alleging jurisdiction justify his allegations by a
6 preponderance of evidence.” *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178,
7 189 (1936). Based on this, the Ninth Circuit has ordered remand of cases in which the
8 defendant “has offered no facts whatsoever to support the court’s exercise of jurisdiction.”
9 *Gaus*, 980 F.2d at 567. For instance, in *Gaus*, the defendant asserted that the amount in
10 controversy exceeded the jurisdictional limit but failed to set forth any specific factual
11 allegations to support such an assertion and the operative complaint was likewise devoid of
12 any such allegations. Similarly, in *Matheson*, the defendant alleged that the amount in
13 controversy exceeded \$75,000 based on an insured’s claim for the loss of a truck valued at
14 \$15,516 for less than two months and his request for economic loss, emotional distress,
15 and punitive damages in excess of \$30,000. The Ninth Circuit found that there was “a
16 serious question whether more than \$75,000 was in controversy” after considering the facts
17 of the complaint. 319 F.3d at 1091. Given the facts alleged, the Court concluded that the
18 record was “devoid of any evidence that [defendant] made the required showing of the
19 amount in controversy.” *Id.*

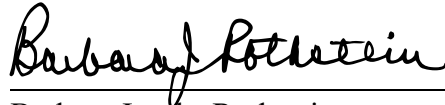
20 Such is not the case here. Voss-Curry alleges significant injuries that required
21 emergency medical care, surgery, and ongoing “extensive” medical treatment, including
22 physical therapy. He claims ongoing physical and psychological distress and a permanent
23 partial disability. While the complaint does not delineate a specific dollar amount for

1 damages, the Court is not required to turn a blind eye to the reality that based on the factual
2 allegations set forth in the complaint, the amount in controversy exceeds \$75,000. *See,*
3 *e.g., Kitchen v. First Student Inc.*, 2020 WL 6537527 (W.D. Wash. November 6, 2020).

4 **IV. CONCLUSION**

5 For the foregoing reasons, the Court HEREBY DENIES Plaintiff's motion to
6 remand (Dkt. No. 4).

7 Dated this 14th day of September 2022.

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10 Barbara Jacobs Rothstein
11 U.S. District Court Judge
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